

Meeting of 2000-8-8 Regular Meeting

MINUTES
LAWTON CITY REGULAR COUNCIL MEETING
AUGUST 8, 2000 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Cecil E. Powell, Mayor Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Sandra Rench, Deputy City Clerk

The meeting was called to order at 6:30 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by State law.

ROLL CALL

Present: G. Wayne Smith, Ward One
 James H. Hanna, Ward Two
 Glenn Devine, Ward Three
John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

Absent: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JULY 25, 2000.

MOTION by Smith, SECOND by Purcell, AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Joanne Baker, 6537 NW Columbia, said they live next to a park and have no access to their back yard or alley except through the park and have never endangered lives or abused or damaged the park in any way. They have cut the park and alley grass, picked up trash, watered trees and repaired playground equipment, etc. to improve the neighborhood. They have not complained when utility trucks crossed their driveway and property to enter the park. She said they bought a new fifth wheel trailer in September 1998, and have kept it parked on a concrete slab in their back yard. They have a nice neighborhood and have neighbors on the east side of the park who also use the park to access their back yard for their trailer. She said they are asking the City to amend or make an exception for them to gain access to their back yard through the park a few times a year in order to park their RV. She said they are trying to abide by the rules and regulations and asked for the Council's help.

The following comments are inserted verbatim:

"Boyd: My name is Steven Boyd, also my alter ego Joe Bobby Lee. I have a message in the styles of the good old boy tradition and I come from P.O. Box 3482, whatever. Let me continue with this presentation. It's the same old story I have been repeating for the last two months, haven't gotten a response. I've written a response to the City in regards to this issue on Lawton Cablevision, got no response so maybe I was a little bit harsh in my presentation in the past so I have kind of revamped my presentation. I've put in the styles of a poem to the city and it meets your three minute criteria. Poem to the City of Council, why must I as a citizen hire a lawyer to litigate about the laws and ordinances that this city originates. Why can't you see something must stop this from going on, my wife and I are simply messengers presenting what the cable company is doing wrong. We don't bite our tongues to the law of this city reinforces what we speak, don't silence the citizens just because you choose to be weak. As a citizen of Lawton and a person who knows what is right it's so disappointing for the City Council to go so far from the light. Billy Drewry, Billy Drewry, what influence he must have in this way to totally eclipse the struggles our forefathers made up to this day. City Council has the power to stop this thing and forever once again let freedom ring. We liken ourselves to civil rights leaders of the past and not to let Lawton Cablevision's influence remind us of slave masters taking us to task. Lawton Cablevision signed this franchise agreement, not by force, they were self centered, they made their own professional choice. There alone came some of your dedicated

constituents with infinite wisdom to ask the City Council to enforce Lawton Cable's decision. Lawton Cable refuses to justify funds dedicated to their full gross of 5% of every dollar they make coming into their ten. Along with no free public access TV for one and all Bill Drewry, KSWO TV and Magic 95 Radio have the unmitigated gall of using outdated plantation style approaches when average citizens are able to add simple figures. Their reluctance to reveal crucial financial reports makes Lawton Cable's deceit and deceptions set off multiple triggers. If they're doing everything right why do they shield their records. We the citizens of Lawton believe we've concerned, we've cornered them like the game of checkers. In your mind and soul eventually his corruption will take a major toll, you the City Council can make a major effect by enforcing ordinance 10-11 truly is in the City's best best. The law is the law and you can't have it both ways, discrimination against any citizen will not result in better days. Do what you must do but at some point you must realize breaking the law in supporting Lawton Cable in the end all city progress surely dies. The way it looks as long as I'm in the color of the skin I'm in, Billy Drewry has double standards and there is no case the citizens can win. The Ninth of the Tenth Calvary history certainly reserves more reference . .

Mayor Powell: Your time is up.

Boyd: Inaudible comment.

Mayor Powell: You forced me to sir.

V. Boyd: Vera Boyd, Post Office Box 3482. I've submitted several requests verbally and in writing and personally handed it to the Mayor and the requests were for three items. One I requested a cable commission. Two I asked who enforces city ordinance 10-11 and last but not least why is it that the city attorney is telling all city law enforcement personnel not to enforce any laws against Bill Drewry and Lawton Cablevision. I feel I'm being discriminated against by the City Council when I continuously see the Council reply to many of its citizens responses and requests and I can't even be dignified with a simple response with, I have three minutes.

Devine: Could I interrupt for just a second please.

V. Boyd: If I can, when my time is over.

Devine: You made a statement that our city attorney has instructed law enforcement agents here, agency here not to enforce any laws toward Mr. Drewry, do you have proof of that ma'am.

S. Boyd: Yes we do, but nobody's asked for it.

Devine: I would like for that to be brought forward and presented to the Mayor.

Vincent: May I make a comment.

Devine: Yes sir.

Vincent: The Drewry's filed a complaint of ordinance 10-911, which I believe was the ordinance number, in the Lawton Municipal Court, that ordinance is not criminal in nature and the Lawton Municipal Court, City Prosecutor's Office has no authority to prosecute that case. We advised the Drewry's of that, Mr. Drewry has filed additional complaints against Mr. Drewry, or Mr. Boyd has filed additional complaints against Mr. Drewry, and I have instructed the city prosecutor to prosecute them in the normal fashion as we would any other citizen complaint because they reference a separate code section that is criminal in nature. But as to the franchise code, the ordinance dealing with franchise it is non-criminal and there is no . . .

S. Boyd: We filed larceny charges against the cable company and it was dismissed, we have a letter from the city prosecutor saying dismiss him just like the other codes, so we are finding out that, why is it they have a double standard against Bill Drewry, larceny is a criminal offense.

Vincent: (Inaudible, interrupted.)

Devine: Mr. Boyd, I'm trying to defend you and help you here.

Vincent: Mr. Devine, that letter was a standard letter they send out when they bring in a complaint and they don't have the supporting documents, they dismiss it, we have a standard letter that goes out and says when you bring the supporting documentation in to show that there was a crime committed we'll refile it. It's a standard letter.

Devine: Okay, now the question that I asked, did you have evidence, or you have the information that he instructed the police department not to pursue any criminal activity that Mr. Drewry would have, is that what you're saying.

S. Boyd: What we have is a verbal, statements from them and verbal statements that they don't want to go up against their boss and their boss is the city attorney. That's what we have from the city police chief and from the city prosecutor.

Devine: But you don't have anything in writing where, that you can do this.

S. Boyd: What I have in writing is evidence of the alleged crimes as well as dismissal complaints from them, that is what I have.

Mayor: Mr. Purcell, Oh, I'm sorry, go ahead Glenn.

Devine: What I am going to ask you, if you can get the statements from anybody that says they know that the, that our city staff, legal staff has told them not to enforce it, you bring them to the Mayor and I'll promise you that I'll do everything I can to help you. But I want it in writing and I want it to where we've got something other than hearsay.

V. Boyd: Councilman Devine, everyone that we've presented this to said that they will not put anything in writing per instructions of the city attorney.

Devine: Mrs. Boyd there is no way that we can prosecute anybody or try to discipline anyone on hearsay, I'm sorry but that has to be . .

V. Boyd: If I submit to you our request, we have a copy of that and you can read for yourself that they do fit under your ordinances and no one is, is coming forth to prosecute or to acknowledge these laws.

Mayor: Mr. Purcell please.

Purcell: I would just like to comment before we go any further. We've heard this same story weekend, every time we have a council meeting. Last time this council was read its Miranda rights by Mr. Boyd, I'd like to suggest that Mr. and Mrs. Boyd, if they have a problem and if they know there is criminal activity, that right over here at the court house there is a district attorney. I suggest you go over there and file charges. If we are in violation of some federal law there is a U.S. Attorney in Oklahoma City, it does not take a lawyer, I suggest you go up there. But I for one am not going to sit here at every single meeting and rehash this. I'm tired of it.

V. Boyd: You still haven't, you are addressing one thing that's the ordinance. . .

Mayor: Mr. Baxter please.

Baxter: I want to say something in the Boyd's defense. He came here about a month ago and he put an item of a cable bill up on that wall and it concerns me very much the fact that he filed some larceny charges against Mr. Drewry and they were dismissed so easily. That cable bill that that man put up on that wall does show, in my opinion, that Mr. Drewry is committing some form of larceny against the general public.

V. Boyd: Thank you.

Baxter: The fact that the franchise . . .

Vincent: I'll discuss that in private with you sir, I'm not going to discuss it here . .

Baxter: The fact that the franchise fee for the citizens of Lawton is 5% does not give him the right to charge me 5% of a late payment due fee when I pay my bill on time. My franchise fee should be \$1.36 not \$1.52.

Vincent: Mr. Baxter that has been turned over to the city auditor.

Baxter: Then you need to tell them people that.

V. Boyd: Yes, I've written so many times . . .

Vincent: Mr. Baker knows that.

S. Boyd: Mr. Baker is not Mr. Boyd or Ms. Boyd.

Mayor: Okay, continue on Mrs. Boyd and you have about a minutes and a half left.

V. Boyd: Thank you. I counted two but okay. Basically I was saying that just my simple three requests I have not been dignified with an answer, you keep rehashing about the ordinance but I did ask on those three items I stated previously. I have a series of upcoming presentations for audience participation segments only because I'm not being heard, including a unique recital, a special piece simply called hypocrites in high places, after that puppets of prominent people, silence is acceptance at the citizens sacrifice and the most controversial yet, white is right, black step back, you don't want to miss it. Some of you guys just don't get it, some of you do. Notice Billy Drewry is never here to defend himself and the city attorney doesn't talk on record to protect his wealth but remember this, when the hype and the smoke of your position goes away you are going to once again be regular citizens just like me someday. See you in two weeks, same time, same channel, you can't silence the citizens brought to you by your friends of Lawton Cable and I'm so glad that someone is finally listening to us and can see the wrong that is being done. Unfortunately nothing can be done about it here in Lawton.

End of Verbatim.

Raymond McCallister commented on Lawton's birthday, parade and rodeo and asked everyone to come.

Gerald Ramagos, 6545 NW Columbia, said he lives on the north side of the park that Mrs. Baker referred to and cares about the park. He said the utility companies all use the park to access the easement and do a lot more damage than anyone else who uses the park. He said he has called PSO to repair ruts they have made in the park; reported a damaged child swing to the City; oiled the swings; cleaned up and stopped vandalism; picked up trash at least once a week; has kept the grass trimmed along his fence and mows the grass in the park within 12 feet from his fence. He said he planted 8 trees in the park with the permission of Dick Huck and Danny Nottingham with one tree costing \$550 and he sprayed, fertilized and watered the trees when they were small. He said an elm tree the City planted was damaged when a building was towed over it and with his care the tree lived and has grown to about 25 feet tall. He said if there is a city ordinance prohibiting their using the park to access their back yard two or three times a year for their trailer, asked the Council to reconsider the ordinance or possibly rewrite it for those people who are abusing the park, not the people who are taking care of it. He said he did not think the City would want to lose the services Mr. Baker and others provide free of charge.

Richard Roberts, 6711 NW Compass, said he is speaking on behalf of James Albertson who lives on the east side of the park. He said like the Baker's and others, he has filled in ruts, fertilized grass and kept the park clean, he has lived there for 36 years and has utilized access to his back yard through the park. Roberts said to get into his own back yard to repair a sewer they had to chop down two bushes and tear out 40 feet of fence because he does not have any access to the easement behind his house. He said the park is being kept by the people who live around it and who utilize it once in a while to move their RV's to their back yards and did not think they could get a better deal than that.

Shirley Goldon said she has lived here for 47 years, is proud of Lawton, knows many good people live here and she tries to help keep it pretty and make it look better. She asked if there is anything that can be done about some of the alleys. She said she has a property at 1811 "E" and has been keeping the alley between 18th and 19th clean for years but the people who live at 1814 "D" Avenue mow their front yard but not the back yard. She said she left them a note asking them to please use the trash cans she provided but the trash has been thrown over the fence and the grass is over the cyclone fence. She said they had written her a note which she gave to Mr. Shanklin. She said she can no longer keep the trash picked up and is paying someone to keep the alley mowed and asked for help from the Council.

Dezi Martinez, 6460 NW Columbia, said he has lived on the south side of the park for 23 years, has seen the park repaired only one time, and now they are complaining because they are using the park after they maintain it. He said they clean up broken bottles from the older kids and get after them because there are small children who use the park. He said they are just asking for a simple solution, possibly the Council could build an easement around the park for access because they do not complain when utility trucks leave big ruts out there. He said they have pictures if they would like to see them.

Baxter said the park is in his ward and he talked with Mr. Baker and Mr. Salva to try to find some type of easement around the outside of the park so the residents could still use it but that is not feasible. He said when the park was dedicated to the City it was definitely dedicated to be used as a park only, with no part being used for anything other than a park and no part can be sold. He said they can not even sell Mrs. Baker ten feet so she can get the travel trailer in the back yard.

Martinez asked why the utility vehicles have the right to use it and leave big ruts and use their driveway to get there. Baxter said that is an agreement they have with the City for use of the easements and utility rights. Martinez said if they were to put gravel out there he would spread it. Baxter said he has tried everything he can to find a solution.

Martinez said if Mr. Baxter is in his ward he did not understand why it took someone out of the ward to make a complaint or bring the complaint up to the city. Baxter said whoever told him that was false. Martinez asked if he was the one who raised the complaint and Baxter said that was correct and he could ask the City Manager. Mayor Powell said that is correct because Baxter came to him and Mr. Baker within a day or two of receiving the complaint. Martinez asked why, before anything was sent out officially in a letter, the problem was not looked at to see if there was a practical solution to this.

Bill Baker said he sent the letter which was not easy to write and which he did not want to write. He said they looked into this issue a lot, he asked the City Attorney and other staff members to look at the situation and see if they had any alternatives that would assist the Baker's and the other people who have a similar problem but they have not been able to identify a solution yet. He said he would be happy to get back with the City Attorney to see if there is some way they can provide assistance. Martinez asked if Baker looked at the problem before writing the letter. Baker said he had the staff look at it, he knew what the problem was, and had talked to the Baker's.

Shanklin asked how he got a building permit from the City knowing where it was going to go when they took in the site plan. He asked if they are picking and choosing or are they saying they are enforcing all of their codes and ordinances just alike, which they know they are not, if they are going to pick and choose let's pick one and find a way for them to use it. Baker said they did not pick and choose in this particular situation, a complaint came in. Shanklin said he is talking about city wide and if he wants to say he does not pick and choose, he can prove it to him.

Kenneth Baker, 6537 NW Columbia, said they were the recipients of the letter that said they had to move their travel trailer and they have pictures if anyone is interested. He said if there is any way they can consider a solution that would be favorable for them, he would appreciate it.

Devine said he is probably one of the initiators that caused some of these problems and it was not because he was picking on the Baker's in any way. He said the Council just considered spending \$200,000 to remodel all of their parks and he and Mr. Salva took pictures of the parks that are going to be remodeled and they are going to spend approximately \$30,000 for this park to completely revamp it. He said he had asked Salva if they should allow access to the back yards of the properties by having private vehicles driving through it, he was not picking on them, but asked if they had an ordinance to cover that. He said Salva was going to check into it and it created an effect that just grew. He said the only solution he can come up with, because the people have a legitimate complaint, would be that maybe Councilman Baxter could get with the City Attorney and have an ordinance revised that would give access to each individual in the City of Lawton that needs access from the park to their back yard. He said that is the only fair way to do it, they can not pick and choose, if they make an exception with this park they will have to make an exception with every park in Lawton otherwise the people who live by the parks have a legitimate right to file a lawsuit against the City. He said if they will get the ordinance, get Mr. Baxter to write the ordinance or table it and get the City Attorney to rewrite the ordinance, he will support it as long as it is fair for every citizen of Lawton. He said if they can make this right for every citizen of Lawton who lives near a park or easement that wants to do it, that is fine.

Mayor Powell thanked the citizens, Baxter and Devine for the information.

BUSINESS ITEMS:

1. Consider adopting a resolution authorizing the installation of traffic control devices at NW 38th and Meadowbrook and identify a funding source. Exhibits: Resolution 00- 77.

Devine said a few weeks ago they tried to get a traffic light and the Traffic Commission decided they wanted to wait to initiate the light installation until they had a survey finished and there is no way they are going to get the survey finished by the time the Kid's Zone is opened. He said he would prefer the Council pass the light installation because he does not want it to wait until they have a child run over. He said they have had a lot of discrepancy as to how they were going to do it and understands they are working on the easement on the east side of 38th Street to provide access where there will be one entrance and exit controlled by a traffic light and asked if that was correct.

Vincent said the owners of the property are amenable to doing a land swap with the City but they do not have the details worked out because they do not know exactly how much land is involved but they can get it done.

Devine said he would make a motion to instruct the engineers to install the traffic light as soon as possible because they have to get a blinking caution light put up temporarily for the construction that will be starting. He said there will be a number of children coming and going and they need to slow the traffic down and get them used to what is going on.

MOVED by Devine, SECOND by Smith, to approve Resolution No. 00- 77 to install traffic signals at the intersection of NW 38th and Meadowbrook.

Baxter said this topic has caused a lot of uproar, everyone is agreeable to putting in a light but they want signalization for a crosswalk with Walk and Don't Walk signs posted at the intersection to include a push button for the kids.

Devine said it is a motion activated light where they will be able to push a button and when vehicles from Meadowbrook get to the intersection the vehicle will activate the changing of the light so traffic will be interrupted only when someone needs to enter it or walk across the street.

Baxter said another point was the one way in and one way out, they only want one driveway at the intersection and want the other driveway closed after the new intersection is developed. Devine said that has already been taken care of.

Baxter said the corners from 38th Street onto Meadowbrook heading west are at a true 90 angle and there have been a lot of citizens ask him if they could consider rounding off the corners. He said there is a fire hydrant on the southwest corner of the intersection that may have to be moved about 10 feet. He said there have been a lot of accidents when cars are trying to turn left.

Mayor Powell said that needs to be taken into consideration and asked for this item be acted on and the City Attorney will have that looked at.

Doug Wells, Information Services Director, said they will need to add about \$3,000 to the cost for the flashing lights to start slowing traffic down.

Mayor Powell said the funding source will be 1995 CIP.

Purcell asked if the \$33,000 will cover the cost of having the walk/go signs and the activation. Wells said he was told it would.

Hanna expressed his appreciation for the traffic light on the corner of Smith and Ft. Sill Blvd.

VOTE ON MOTION: AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

(Title Only) Resolution No. 00-77

A resolution authorizing the installation and/or removal of traffic control devices at certain designated locations within the City of Lawton, Oklahoma.

2. Consider adopting an ordinance amending Section 23-601, Chapter 23, Lawton City Code, 1995, as amended, increasing the distance for parking requirements. Exhibits: Ordinance 00-24.

Baxter said they have had problems with people parking too close to an intersection where you can not turn off of a main street to a side street without causing a traffic jam on the main street. He recommended changing the distance from 20 feet to 45 feet of an intersection for parking.

Vincent said there is a sight triangle on every corner and if you extend the lines on the hypotenuse of the triangle it extends to about 47.5 feet from the intersection with the curb line on a standardized street so they rounded it to 45 feet and that would also protect the sight triangle.

MOVED by Baxter, SECOND by Shanklin , to adopt Ordinance No. 00-24 amending Section 23-601, Chapter 23, Lawton City Code, 1995, increasing the distance for parking requirements.

(Title read by Clerk) Ordinance No. 00-24

An ordinance related to parking distances, amending Section 23-601, Article 6, Chapter 23, Lawton City Code, 1995, by amending provisions increasing the distance a vehicle may be parked to insure a clear line of sight at intersections.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

3. Consider adopting an ordinance amending Section 23-1001, Chapter 23, Lawton City Code, 1995, as amended, allowing parking on the right-hand side of the roadway next to the right-hand curb or edge of roadway, with the exception of a one-way street. Exhibits: Ordinance 00-25.

Baxter said currently vehicles are allowed to park against traffic flow if the street does not have a curb and this will make it where you have to park with the traffic flow.

MOVED by Baxter, SECOND by Smith, to approved Ordinance No. 00-25 amending Section 23-1001, Chapter 23, Lawton City Code, 1995, allowing parking on the right-hand side of the roadway next to the right-hand curb or edge of roadway, with the exception of a one-way street.

(Title read by Clerk) Ordinance No. 00-25

An ordinance related to the direction of parking, amending Section 23-1001, Article 10, Chapter 23, Lawton City Code, 1995, by amending provisions allowing parking on the right-hand side of the roadway next to the right-hand curb or edge of roadway, with the exception of a one-way street.

VOTE ON MOTION: AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

4. Consider adopting an ordinance amending Chapter 16, Lawton City Code, 1995, Section 16-4-2-425 relating to the operation of loud machinery; providing for severability and declaring an emergency. Exhibits: Ordinance 00-26.

Baker said this ordinance was suggested by Shanklin at a previous meeting, if adopted it will allow the City Manager to make decisions on the operation of loud machinery and equipment when there is an eminent health or safety issue such as birds in back yards, etc.

Shanklin asked what they have done with the recent bird problem. Baker said he spoke with the lady two days ago and told her they will assist her, Dan Tucker was given that task this morning. He said they have a pistol that shoots a projectile that they are going to try first and if that does not work he has advised Tucker to order a canon and they will set it up. Shanklin asked if Baker looked at the brochure for the gel for \$95 that makes 600 gallons that will do away with birds and geese. Baker said he looked at that but they are going to try the pistol first, they have used it at the landfill and have it available and it works well. Shanklin asked Vincent if that would work. Vincent said in some instances he has seen it work and not in others but it is worth a shot before they spend some more money.

MOVED by Shanklin, SECOND by Smith , to adopt Ordinance No. 00-26 amending Chapter 16, Lawton City Code, 1995, Section 16-4-2-425 relating to the operation of loud machinery; providing for severability and declaring an emergency.

(Title read by Clerk) Ordinance No. 00-26

An ordinance relating to loud noises amending Chapter 16, Lawton City Code, 1995, Section 16-4-2-425, operation of loud machinery, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

9. Discuss deeding 3.9 acres of Elmer Thomas Park to Independent School District #8 and take appropriate action. Exhibits: Two (2) Letters from C.E. Wade. THIS ITEM WAS CONSIDERED AT THIS TIME.

Vincent said since the agenda item was written they met with Chuck Wade and the area of request has been reduced to approximately 1.999 acres rounded off to 2 acres, it is 125 additional feet east of the current property line.

Chuck Wade said they can accommodate what they want to do with an additional two acres, it is essentially an additional 125 feet from the existing property line.

Vincent said they have also discussed what would be adequate compensation or consideration for this additional property and the school has made a proposal that Mr. Salva has evaluated relocating or rearranging the east side park to better facilitate or better align the boundaries.

Gary Salva, Parks and Recreation Director, provided a view graph and noted the areas to be exchanged in the east side park identified as A & B which is being proposed to be switched with 3 & 4 which will square off the park. He said the ball field complex to be constructed this winter and played on in 2002 will be on a plateau (area 3 & 4). This will be an advantage to Parks and Recreation, developing this area will give them more area to develop further to the north; he referenced the grade and less excavation being required with the usefulness of areas 3 & 4 being more useful than areas A & B.

Shanklin said he remembered Salva saying there was not much grading that would have to be done, that there would not be any excavation, and Shanklin had told him there would be a lot of excavation. Salva said with any project there will be excavation. Shanklin said Salva was saying it would be minimal and Shanklin asked if it was minimal. Salva said there is a plateau area and pointed out on the view graph where the excavation would occur which would be to the north. He said Guernsey and Associates has not completed the design yet and there will be a meeting with them on the 17th to discuss the preliminary design, the engineering department contacted Guernsey and if you are going to acquire the land you can still build on the plateau.

Shanklin asked Vincent if they agreed to give them the land to build a junior high, it was not an acre for acre swap, value dollar for dollar, they needed something to take the place of the Kiwanis ball park. Vincent said based on the information in the file the City traded 20 acres of land at Elmer Thomas Park for approximately 20 acres of land in the area on the east side, because of the improvements at Elmer Thomas Park the School system gave the City an additional 20 acres of land to cover the cost of the improvements and that was the swap that was reflected in the file.

Purcell said he was on the Council when the trade of approximately 40 acres to the City was made for approximately 20 acres to LPS. He said he and Chuck Wade thought the traded acreage in Elmer Thomas Park included all the land up to the road that runs through Elmer Thomas Park but it did not, it was only 19.97 acres. He said they should have included the whole area of 3.9 acres which would have been all the way to the road unless there is something the City could do with that single acre. He said this exchange would be an additional two acres to the 1.9 acres they have across the road from Ferris, everything to the west of the road is owned by LPS. He asked why the City would want one strip of land on the west side of the road when nothing can be put there, why not just give the school this small strip which would make the exchange a total of approximately 24 acres up to the road for the 40 acres the City received on the east side. He said he did not have a problem with the property designated 3 & 4 but they need to give the school all the land up to the road.

Mayor Powell said he thought there was a legal problem with that and it is his understanding that you can not simply give land away regardless of who receives it. Purcell asked if they could trade the 3.9 acres for area 3 & 4 and they are talking about 2 acres now.

Vincent said they have no objection to the 3.9 from a legal standpoint, they do the real-estate and they proposed the 3.9 acres to Mr. Wade when they started discussing this. Vincent referenced the aerial photograph noting an area west of the road as being a City of Lawton sanitation dump station with fresh water for RV's which is why they triangulated the property off the west side of that boundary down to the 50' point south of the current entrance to Shoemaker Center from the back side and is how they arrived at 3.9 acres, they can not go all the way to the road. Purcell asked what they are going to do with that tiny portion other than mow it.

Chuck Wade said the 3.9 acres was developed by the City as a proposed description when the school came forward requesting additional land. He said the present design has a soccer field that encroaches 75 feet onto the tract and a baseball field that encroaches 35 feet, they need to move the athletic facilities about another 40 feet to the east in order to provide a better separation between the building and the parking. He said the reason the letters were submitted and why he did not propose any kind of exchange was that he felt under the original agreement the request could be favorably considered because the basic intent in the 1995 agreement was that in the purpose of the agreement "the City and the Board intend that the exchange of real property will result in the Board having adequate realty to build its school facility" and they are coming up right at 2 acres short. He said when the City Attorney's staff brought up the condition of additional consideration he went to the Board and it was obvious to them, that to square up what the City has, tracts 3 and 4 each comprise 2.5 acres and are much more useful to the City than tracts A and B.

Powell asked if the Council members had any problem with this.

Devine said he wanted to make a motion to give them the 3.9 acres and do the swap.

Vincent said the motion should be to amend the contract to rearrange the east side park land area and increase the acreage in the original agreement.

MOVED by Devine, SECOND by Shanklin, to amend the contract to rearrange the east side park land area and increase the acreage in the original agreement. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

5. Consider approving the recommendation of the City Transit Trust to implement a public transit system and fund the capital costs from the 2000 Capital Improvement Program. Consider approving an alternative funding source. Exhibits: None.

Powell said the CIP watchdog committee chairperson called and it is their strong feelings that the funds that have been selected under the authority do not fit under economic development funds out of 2000 CIP funds. He said they are keeping abreast of what is happening and have called Mr. Baker and he advised him of this and in addition, he has had very strong phone calls from people in the media field that have strong objections to this happening.

Baxter said he had also heard that the watchdog committee definitely does not want to use the money in that way and he did some research and discovered that a mass transit system falls under the human resources part in a city, not economic development.

Hanna said he received numerous phone calls from young and elderly citizens concerned about taking this money from the 2000 CIP and they wish it not to be done. He proposed placing mass transit before a vote of the people, if the people want it they will vote it in, if they do not, they will vote it out and that way they have to come up with the money from the tax base or something else other than the water. He said he is getting a lot of comments to not take it from the 2000 CIP.

Powell asked if that would be in the form of a motion to take it to a vote of the people.

MOVED by Hanna, SECOND by Devine, to take it to the vote of the people.

Purcell said he has received calls from people who have said they do not need and do not want public transportation and that group does not think they should spend \$230,000 to \$250,000 a year to do that and understood and respected what they were saying. He said there is also a group of people who feel they need the public transportation but object to it coming from the CIP. He said it appears this Council and previous Council's, on numerous occasions, have agreed to do public transportation and now the idea is where to fund it. He said if they take it to a vote of the people what are they voting on, is it whether they want transportation or transportation funded by X, Y or Z or pick one, they can not just go to the people and ask if they want transportation because they would be back in the same predicament.

Devine suggested taking it to the vote of the people and at the same time let them pass a sales tax to supplement the cost so it will be divided over the whole city rather than a select few. He said he has looked at the options, they are wanting to add it to the utility bills or add here and take from there and if they want to put it that way the people can put the burden on themselves. He said they can vote for the mass transit system to come in and vote for the increase in sales tax to support it.

Powell said Devine was saying one way and one way only and that would be through the sales tax.

Smith asked what they are looking at for a percentage increment increase on taxes to fund this.

Powell asked what a quarter percent would raise. Shanklin said it would be \$1.3 million.

Steve Livingston, Finance Director, said concerning the issue of funding, one is to buy in and one is to operate the system. He said if you take the voters an issue to pay for the purchase of the buses it would be \$143,000 and it would be about \$7 million for a penny on the sales tax so that would be more than passing a sales tax, that would operate the system which would be \$250,000 to \$300,000.

Hanna asked if they get a percentage back. Livingston said that is correct. He said the City's requirement is approximately \$170,000 on the match and they may be able to use some of the funds in the 1990 CIP, which had economic development in that program, and there are some funds as they wind up all the projects and would like to get that closed out. He said they could take the \$180,000 from the 1990 CIP, if transportation is what the Council wants, and they could get an application in place for grants and fund it. He said since they have a grant they could appropriate the funds in the mass transit authority and encumber it.

Mayor Powell said what he has heard is to go for a vote of the people to include a sales tax, and will then come back with that percentage to create \$236,000.

Haywood asked if they have money left in economic development in 1990. Livingston said yes, in the 1990 program they had the Marquardt project and had an economic development function in the program, this would be funds they would identify and it would qualify as an economic development expenditure.

Haywood said if he made a substitute motion to fund the transportation on the 1990 economic development they could find

the funds. Livingston said yes on the capital, but it is a complicated issue. He said they have to find some funds to operate, if they proceed at this point to buy the buses or identify the funds, and if the Council wants to order buses, they have to have in place someone to write the specifications, about \$70,000 of the first year operating funds. He said this year's budget does not support operating funds for this, some of this could be taken from Council Contingency and other areas that were referenced so that they can parallel each other and could develop a grant and the specifications and then near the time when the buses arrive, hopefully in this fiscal year, they would begin to hire people and put them in place, etc.

Haywood said he does not want the City Manager to get blamed for mass transit because he has been pushing it since he has been on the Council and it goes back to 1998. He said he does not think the people need to vote on it, Council needs to make that decision.

SUBSTITUTE MOTION by Haywood, to use the 1990 CIP to fund the mass transit.

Moeller said she had asked Baker and Livingston that if they found the money to implement this could they find the source to continue it without a tax or addition to the water bill and they said they could. She said Purcell's motion was to borrow the money from CIP and pay it back, it would only be to get them started and did not mean they were going to use it and not pay it back to the CIP if they used that money. She said as far as a bus transit system, it is infrastructure, the dictionary references infrastructure as transportation, communication as part of infrastructure and that is all she has ever heard on CIP and capital improvements and economic development is infrastructure and it qualifies under the Webster dictionary. She said service is also transportation, a means of assistance, a system to convey goods, business or conveying persons to goods; this is passengers or goods, and believed they needed a system. She said she received calls from 3 people who said no but had 12 calls that asked them please, including a blind lady in her area, a divorced woman who said she does not make enough money and walks to work, and she had a judge tell her that he had a lady walk five miles to be at a court hearing. She said they need to look at this, she has been told that there is a way to finance this without a tax and without \$.75 on the water bill and would like to see that pursued.

SECOND by Smith, to the Substitute motion.

Shanklin said he thought they had spent all the funds in the 1990 CIP and asked how much is left and if they said they had spent it all. Baxter said they were told that two months ago. Livingston said in the 1990 CIP they have the 82nd Street and according to his records there is \$182,000 encumbered to the 82nd Street reconstruction which is under contract, there may be some easements to acquire but this project is also qualified in the 1990 CIP. He said they can use those funds that are identified for 82nd Street because the program qualifies for economic development, and after the project is totally complete if there are additional needs they can complete the 82nd Street project, if necessary, out of the 1995 CIP.

Shanklin asked if there is \$180,000 left in the 1990 CIP. Livingston said yes, but the 1995 CIP would be used if there are additional needs, right now they are not ready to say there is no more cost in the 82nd Street project but if you want to do mass transit and do not want to use the 2000 CIP you can do it from 1990 with economic development money and when 82nd Street is finished if they need additional funds they will use the 1995 CIP funds. He said in addition they will have to identify \$75,000 this year to kick the program off as stated in the August 4, funding letter.

Shanklin said 82nd Street is being completed and is contracted. Livingston said those funds are encumbered against the money and these are funds that are not encumbered.

Devine said it seems as though every time they get into these discussions they are borrowing from Peter to pay Paul and are constantly shuffling money around and do not know where they are at and he did not know they had money in the 1990 CIP. He said 82nd Street is not finished and they are wanting to take money out from that and then where are they going to get the money to buy right-of-ways. He said Hanna had a very good suggestion, take it to a vote of the people, it would cost about 1/8 of one percent to fund it and they have funding from now on and would not have to borrow from anybody or take it from any CIP or any other development, the voters vote it in and let them pay for it and then they have the money.

Baxter said Livingston is saying to take money from the 1990 CIP for economic development and apparently no one heard what he said the first time, mass transit is not economic development, it comes under the human resources category. He said when those people in 1990 voted for that he was sure that nowhere on there did it say they might do mass transit in five or ten years.

Mayor Powell said there was a person wishing to speak.

Kent Culver, 2328 NW 76th Street, asked how much it is going to cost the City of Lawton to modify the streets for the bus stops; is Cache Road going to be changed to an HOV for the buses to travel since that is the main artery and it is the only three lane road in town and are they going to make one lane a bus lane. He asked what the buses are going to emit when considering the air quality standards; where are the repair facilities going; how many employees are required; who will pick up the tab for the new bus department and has an EPA air quality standards test been taken in reference to the busing; what is the percentage of ridership and citizens who are going to benefit.

Powell said in regard to the air quality for 24 passenger vehicles if people are sold on the idea, mass transit would in fact help the air quality from the standpoint that you would have 24 less vehicles traveling and although that may not happen that is what the people in the transportation system have said.

Purcell said in regard to Haywood's motion they still have the two issues, they have money they need to fund the first year

to get started, if they wait for a vote of the people they delay it another six months and then they have the continuing budget to fund each year. He said the first year's funding, whether it is over \$70,000 this year and \$180,000 next year, it becomes the first year of funding which equates to \$236,000 according to the report they received and asked if Haywood's motion is to get the first \$236,000 out of the 1990 CIP. Haywood said yes and then they need to identify some more money for the normal operations in the future.

Moeller said it is the responsibility of this Council to say yes or no to do it and then take the funding to the people for a vote. She said she was concerned that the people who need the transportation the most can not get to the poll's so those that do not need it can get there and is not sure the vote would not be lopsided.

Baxter said there is a bad misconception about what the buses are going to look like. He said the gentleman in the audience is thinking it is going to be a big bus with a big smoking diesel engine coming out of the back of it like they use in Oklahoma City and that is not what they are talking about. He said he would like the newspaper or Channel 7 to get a photograph to show to the general public what these 24 passenger buses look like so the people understand.

Purcell suggested providing Mr. Culver with a copy of the briefing. Mayor Powell said they could provide him with the handout which would cover all his questions.

Kevin Shutt, 1004 NW Bell, Apt. A, asked why they are going to enter into a business that will be a losing proposition for the citizens. He said public transits have a history of making no money and if you have to operate on tax subsidies you are losing money for everyone. He said even if you are using a low polluting bus if the ratio of passengers does not exceed a certain amount you are still putting more pollution in than they would with private vehicles. He said he would probably benefit from a public transit system but did not think it was fair to tax the citizen's of Lawton by implementing a system and wondered if any of the Council would ride the bus once it was in place.

Mayor Powell said they had a motion to take this to a vote of the people with a tax and the tax amount would be identified to raise \$236,000 per year and there was a second to the motion. Then there was a substitute motion by Haywood to start up with the money being taken from the 1990 CIP economic development funds and there was a second to this motion and asked for the roll on the substitute motion.

Shanklin said they spend a million dollars for the library and not everyone uses it; they spend \$700,000 for the lakes; \$500,000 for lakes and lands and \$200,000 to police it and they get back \$184,000 or \$185,000; they have \$5 million in the parks and recreation program and they do not complain about that for the kids in the ball diamonds. He said they are talking about \$280,000 to \$300,000 and they act like that is a sum they just can not get to and he did not understand that mind set. They all know Certified Cities, some of their leaders, people with some means have to use their time and effort to work in Certified Cities and they have come up with a survey that mass transit was the number one thing that they needed to enter them onto a plateau that entices economic development. He said they talk about economic development but to get up to another level they need the mass transit so if they are going to nit pick the \$300,000 because they do not have it, they find it for everything else, he did not know how they were going to act next year when they get to the budget. He said they provide a lot of services that do not help everyone, he does not use Rogers Lane but it cost them millions of dollars even though it was State funded to a great extent. He said everything that they do does not benefit everyone else.

Purcell said he agreed with Shanklin and they know it's not a business, there is no bus transportation or public transportation anywhere in the Country that is a money making item, it is all subsidized by a government of some kind and all they are really doing is providing a service the same as they do for the library, lakes and lands or public works, it is a service that will cost approximately \$250,000 a year from now on.

Smith said it is a cheap price for an extremely good service.

Hanna said he wanted to amend his motion. Vincent said he can amend his motion but it is still the main motion and the substitute goes first.

Hanna said they need to take it to the vote of the people because we are going to have to pay for it and see if they really want this and they are going to indenture the City forever because the bus system will be here for a long time once they put it in. Vincent said as he understands it the motion would be without the funding and Hanna agreed and said he wanted the citizens to have the say so as to whether or not they have mass transit.

Powell asked if the motion is to take it to the vote of the people and whether they do or whether they do not and no tax is attached to it. Hanna said he has heard that they have money to spend anywhere they want it for the transit system. Powell said the motion is amended that there will be no tax included just take it to a vote of the people. Devine said he would still second the motion because the people still need to vote on it.

Purcell asked what happens if the people say yes, they still have to come up with the money and if the people say no, do you drop it. Hanna said there is money available in the 1990 and 1995 CIP.

Haywood said they have done surveys all over town for five years and mass transit has been number one all over Lawton.

Powell said he is going to have the roll called on the substitute motion and that is to take the start up funds for the first year from the 1990 CIP economic development funds.

Baxter said it is insane for them to consider taking funds from the 1990 CIP when the 82nd Street Project is not completed. Haywood said even if it is not completed they can take funds from the 1995 CIP and complete 82nd Street, that is not being insane.

Shanklin said he would make a second substitute motion that this be tabled and they workshop it and every council person call people in his ward to get a feel for it. He said he thinks they are confused, they need to see some of these figures that Livingston has brought before them and did not think they needed to make that decision tonight.

SECOND SUBSTITUTE MOTION by Shanklin, SECOND by Baxter, to table. AYE: Shanklin, Baxter. NAY: Moeller, Haywood, Smith, Hanna, Devine, Purcell. MOTION FAILED.

Baker said in regard to the motions, if they go for an election they are going to have to prepare an ordinance and resolution and bring them back very soon if their intent is to go to the electorate in November and was assuming that was what they wanted to do, so it will need to be brought back to the next meeting or early in September. He said Haywood's motion will work and is one of the alternatives that staff has brought forward. He said he also received a lot of phone calls from citizens objecting to using the 2000 CIP for the transit system and thought it would be a mistake to use 2000 funds for the transit system, they will also lose some credibility with the citizens. He said he wanted to make it clear that in order to do this, if Council wants mass transit, they will have to use the 2000 CIP as collateral to order the buses and that does not mean they will spend it but they have to have funds available when they order the buses. He said he has talked to some of the people that were concerned in the community about using the 2000 CIP and explained to them that they could use the 2000 CIP as collateral only in order to have the funds available when they order the buses, when they get an invoice they would immediately ask for reimbursement from the Federal government and before they write a check they would have the reimbursement and would not spend a penny of the 2000 CIP. He said the people he talked to had no problem with that as long as they do not spend the 2000 CIP.

Powell said under the substitute motion there would be no money spent period out of the 2000 CIP.

VOTE ON THE SUBSTITUTE MOTION: AYE: Moeller, Haywood, Smith, Purcell. ABSTAIN: Baxter, Shanklin. NAY: Hanna, Devine. MOTION CARRIED. (See below)

Powell asked if the substitute motion would pass with four aye's, two no's and two abstention's and asked the City Attorney to provide the answer.

Upon motion, second and roll call vote the Council recessed at 8:00 p.m. and returned to open session at 8:10 p.m. with all members present.

Vincent said the word majority means more than half and when the term majority is used without qualification as in the basic requirement, which is what they are under here, it means more than half the votes cast by persons legally entitled to vote excluding blanks or abstentions so the abstentions do not count so the motion passed four to two.

Shanklin asked what the Charter says about an abstain vote. Purcell said under the old City Charter abstentions counted as no causing problems, in the new City Charter the abstentions count as abstentions, they are not no and they are not yes.

6. Consider authorizing a Civil Engineer for the 2000 Capital Improvement Program. Exhibits: None.

Baker said the Public Works Director is requesting the addition of another engineer to his staff to support the 2000 CIP. He said the work load is getting heavier every day, they have a very aggressive program and are trying to get all the projects done in a timely manner. He said they have to have the resources to do it and recommended approval of this action to be funded from the CIP program, this is not unusual, they have done this in the past frequently and is certainly a legitimate use of those funds.

Powell said at the presentation recently it was indicated that there was going to be a need for this.

Shanklin asked if this person will be good for the next ten years if they do not need him, they would find a place for him.

MOVED by Smith, SECOND by Purcell, to authorize a Civil Engineer for the 2000 Capital Improvement Program. AYE: Smith, Hanna, Devine, Purcell, Moeller, Haywood, Baxter. NAY: Shanklin. MOTION CARRIED.

7. Consider awarding a contract to Bordwine Development for the Verna Cook & Harkey Park Improvements Project #2000-9 and identifying a funding source. Exhibits: Location Map.

Haywood said they have been waiting for a long time for a park, they did not have enough money, Harkey Park needed \$27,450 and Verna Cook Park \$102,025 and asked that they award the bid to Bordwine Development and take the funds from the 1995 CIP to fund the project.

MOVED by Haywood, SECOND by Smith, to award the contract to Bordwine Development in the amount of \$310,500 for the Verna Cook & Harkey Park Improvements Project #2000-9.

Shanklin said that is a lot of money for two parks not a half mile apart with some funds from CDBG, they spent a lot of

money at Dunbar and this is not too far from Dunbar. Haywood said Dunbar is on the 1700 block and this is on the 1200 block and it is not too far from where Councilwoman Green lived in Longview. He said there are several churches that can go to this park and have church picnics, people come from all over Lawton to use this park. He said Pleasant Valley is also close by and those people can use the park. He said the Assembly of God on 82nd Street uses the park almost every week, they have their rallies in this park but they do not have the facilities they should have. He said everyone uses this park and it is about three to four blocks long.

Shanklin said they are beside one another. Haywood said Harkey Park is too small.

Devine said he does not have a problem with spending money down there, they have put \$400,000 plus in Dunbar and are going to put another million dollars into it over a 20 year period of time. He said he voted against it, not because he did not think they needed it, but because he would rather have seen the building torn down even though it was an old building and was supposed to be historical but he wished they would have built a new facility and now they are going to spend a considerably large amount of money again. He said he could agree to one of the parks and support it but did not think he could support both parks.

Haywood said they have both parks but Verna Cook is the main park to identify funds for.

Powell asked if it was located approximately a block behind the blood bank. Haywood said yes.

Devine asked how much is needed for the Verna Cook Park. Haywood said according to the Commentary they need \$102,000; the bid came in at \$244,000 for Verna Cook.

Purcell said they are trying to come up with \$310,500 for the two parks and asked how much is CDBG. Haywood said \$116,000. Purcell said they have spent a lot of money in that area and they have to start doing something in some other parks around town and asked if there is any money left in the CDBG or if that is all the contingency. Haywood said that is money that was approved in the CDBG. Purcell asked if they could take out some more money from CDBG and put it against the parks instead of 1995 CIP because they have contingency left.

Frank Pondrom said the current year they have less than \$5,000 in contingency and in previous years if they added them less than \$40,000.

Baxter said about 60 days ago Salva received funding to repair ten parks for approximately \$200,000 and he did not understand why it was going to cost \$325,500 to fix two parks when they can fix ten for \$200,000. He said if there is \$116,000 set aside from CDBG and if Haywood would make a motion to use that money to fix the Harkey Park at a bid of \$66,500 he may be able to get something done.

Haywood said the only thing they were going to put in Harkey Park was a pavilion and did not know how it came to be that high. He said in regard to Verna Cook Park they want to have Juneteenth there, a basketball court, a tennis court which they were going to name after Ms. Green and a walking path.

Smith said the money they approved previously for parks was for upgrades and refurbishing of parks, Verna Cook Park is basically a large field with one basketball court and nothing else. He said they have spent a lot of money in Lawton View but Lawton View does not have a good quality park and if they go with just one it has to be Verna Cook because that is the one everyone is using now, it is the park they use for the Juneteenth celebration which is attended by a lot of people.

Hanna said he has a park in Lawton Heights that has been empty for quite a few years and Salva has told him he could put equipment in it for \$25,000 to \$30,000 and this is for five times that amount of money. He said Pat Henry School uses this park and over 700 children go to that school, it is a neighborhood park and there is not anything in there now except a backstop and if he could get by with that small amount of money the other neighborhoods could do the same.

Haywood said this is different.

Hanna said Taft Park also needs to be upgraded and one in Mission Village is in poor shape as well.

Smith said that is the point, there are several parks in Hanna's ward that can be used. Hanna said they are empty, one is empty.

Devine said there are a lot of parks in Haywood's ward, it is not just one park.

Powell asked Haywood if he wants the motion to stay just the same.

Haywood said yes and asked if the motion could be split up.

Shanklin said he would make a substitute motion, if his figures are correct, the Verna Cook bid is \$244,000 less \$116,000 from CDBG accounts which leaves \$128,000 which would be what they have to come up with to do just the one big park and he could go with the \$128,000 out of the CIP fund.

MOVED by Haywood, SECOND by Shanklin, to approve Verna Cook Park at the additional \$128,000.

Vincent said the motion needs to be to approve Verna Cook Park for \$244,000, \$116,061 from CDBG and the balance from the 1995 CIP.

AMENDED MOTION by Haywood, SECOND by Shanklin, to approve Verna Cook Park for \$244,000, \$116,061 from CDBG and the balance from the 1995 CIP.

Purcell asked if they have to reject the Harkey Park bid. Vincent asked Ihler if the bid could be split and the response was yes. Vincent said if they vote on the motion they would have to vote to reject the Harkey Park.

Devine asked if they were voting to reject or accept.

Pondrom said when dealing with the Community Development Block Grant it involves moving money from the Harkey Park project to the Verna Cook Park which would require a public hearing since the \$116,000 was for both parks. Vincent said a public hearing hasn't been advertised.

MOVED by Devine, SECOND by Hanna, to table this item to the next meeting. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. AYE: None. MOTION CARRIED.

10. Consider approving the record plat for Kingsbriar Addition, Part 4 and accepting the improvements, escrow in lieu of completed improvements, maintenance bonds, easements outside the platted area, and money in lieu of park land dedication. Exhibits: Plat Map; Escrow Agreement, Maintenance Bonds and Easements on file in City Clerk's Office. THIS ITEM WAS CONSIDERED AT THIS TIME.

Bigham said when they prepared the agenda item commentary last week they were anticipating the improvements to be completed by Wednesday. He said the completion of the improvements did not materialize by the time the agenda was printed and he provided an amended Item 10 commentary. He said they had a special City Planning Commission (CPC) meeting Monday and they approved the plat subject to conditions, the condition has been met, there were some noted deficiencies in the street and a cash escrow agreement has been placed in the amount of \$2,500 for those deficiencies. He said staff is recommending approval of the record plat of Kingsbriar Addition Part 4, accept the water and sewer improvements, two cash escrow agreements, one for erosion control and the street improvements, the maintenance bonds for water and sewer and erosion control improvements, easements and money in lieu of park land dedication. He said the difference in the recommendation is that they are not recommending to accept the streets and the maintenance bond for the street at this time until the deficiencies are completed. He said the developer anticipates applying for building permits soon after the record plat is filed at the court house and this potentially will delay him because there is a provision in the City Code that says no building permits will be issued until all of the improvements have been accepted by the Council.

Powell said Bigham is asking them to accept all of them and Mr. Ledford has money in escrow for this. Bigham said the Council can go either way on this, accept all the improvements to include the streets and the maintenance bond or they can delay until the deficiencies are corrected.

Vincent said there are two recommended actions on the substitute document provided or Council can go with the recommended action on the original commentary. He said if the Council wants to take the chance they can take the first recommendation and it has not been a problem.

Powell asked which would be the shortest route to get him in business. Vincent said the recommendation in the agenda and not the amended recommendation.

MOVED by Shanklin SECOND by Devine, to approve the record plat for Kingsbriar Addition, Part 4 and accept the water and sewer improvements, cash escrow agreements in lieu of completed erosion control and street improvements, maintenance bonds for water, sewer, and erosion control improvements, easements, and money in lieu of park land.

Purcell said some improvements need to be made on the streets and some of the asphalt needs to be replaced and some low spots with water and asked Keegan Ledford if he is going to do that and that he is putting it into an escrow account where if for some reason he does not do it then the City has the money to do it. Ledford said yes, and it should be completed by Monday. He said he tried to give park land and they did not want it so he gave about \$8,000 in park money so they could use it for the parks.

VOTE ON MOTION: AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

8. Consider authorizing the addition of five street lights. Exhibits: None.

Hanna said in the past they had a problem with installing street lights with letters to PSO and the letter of request sitting on someone's desk for quite a while and once that was identified PSO installed it and he is requesting they put money aside to have the material so all they have to do is tell PSO they need it installed.

MOVED by Hanna, SECOND by Smith, to authorize the addition of five street lights.

Purcell said he thought PSO put the street lights up and the City only paid for the electricity. Baker said they are installed and the monthly utility bill pays for the installation and it is paid out over a period of time.

VOTE MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

11. Consider the following damage claims recommended for denial: Dennis and Tammy Podzemny; Margie Duke; Anthony V. Johnson; and Mourine C. Vanisko. Exhibits: Legal Opinions/Recommendations. Action: Denied the claims.

12. THIS ITEM WAS CONSIDERED SEPARATELY.

13. Consider a revocable permit to Southwest Outdoor Advertising Company for the continuation of a non-accessory sign over the SE Interstate Drive right-of-way. Exhibits: Revocable Permit with Survey. Action: Approval of item.

14. Consider approving a First Amendment to the Trust Indenture of the Museum of the Great Plains Authority, and authorize execution of the First Amendment. Exhibits: First Amendment (on file with City Clerk). Action: Approval of item.

15. Consider approving contract revision between the City of Lawton and the Lawton Board of Education Independent School District No. 8, Comanche County, Oklahoma, for rental of office space at 2211 NW 25th Street and class room space at 1701 NW Taft for use as police precinct stations. Exhibits: Revised Contract. Action: Approval of item.

16. Consider a proposal from Lawton Mobile Meals for services for FY 2000-01 and enter into an agreement for services. Exhibits: None. (Agreement on file with City Clerk) Action: Approved in the amount of \$40,000.

17. Consider adopting a resolution determining that the loan to Carol A. Browning for the rehabilitation of the home at 1204 NW Baldwin Avenue, from the Community Development Block Grant is uncollectible and authorize removal of same from the reported assets of the CDBG program and from the City of Lawton Contract Monitoring System. Exhibits: Resolution 00-82.

(Title only) Resolution No. 00-82

A resolution determining the delinquent Community Development rehabilitation loan made to Carol A. Browning, is uncollectible and authorizing removal of the loan from the reported assets of the Community development Block Grant Program and from the City of Lawton Contract Monitoring System.

18. Consider authorizing application and acceptance for a Department of Justice Local Law Enforcement Block Grant and authorizing the Mayor to appoint a committee as required by the grant conditions. Exhibits: Letter. Action: Approval of item.

19. Consider approving a renewal agreement effective July 1, 2000 through June 30, 2001 between the State of Oklahoma Office of Juvenile Affairs and the City of Lawton for the continued operation and management of a Community Intervention Center in Lawton, and authorize execution of the renewal agreement. Exhibits: Interlocal Agreement. Action: Approval of item

20. Consider approving a renewal agreement between the City and Marie Detty Youth Services Center for the continued operation and management of a Community Intervention Center in Lawton; and authorize execution of the renewal agreement. Exhibits: Agreement. Action: Approval of item

21. Consider accepting dedication of the waterline serving Howard Johnson's and Montego Bay Apartments. Exhibits: Letter from Bill Drewry and Frank Dayringer. Action: Approval of item

22. Consider approving plans and specifications for the NW 64th Street and Taylor Storm Drainage Project #2000-31 and authorizing staff to advertise for bids. Exhibits: Map. Action: Approval of item

23. Consider awarding a construction contract to Bordwine Development for the Animal Welfare Building Improvements Project #2000-15 and identify a funding source. Exhibits: Map. Action: Award contract as shown in the amount of \$32,000.

24. Consider rejecting bid proposals for the LPD Storage Building Project #2000-25 and authorize staff to re-advertise. Exhibits: Map. Action: Rejected bid and authorized staff to re-advertise.

25. Consider authorizing the Mayor to execute an addendum to the schedule for Consent Order No. 95-109(A). Exhibits: Addendum. Action: Approval of item

26. Consider acknowledging receipt of permits for the construction of sewerlines from the Oklahoma State Department of Environmental Quality in Phase I of the City of Lawton Sewer Renovation Project. Exhibits: None. (Permit on file with City Clerk) Action: Approval of item

27. Consider acknowledging receipt of permit from the Oklahoma State Department of Environmental Quality for the construction of sanitary sewer lines with appurtenances to serve Guarantee State Bank. Exhibits: None. (Permit on file

with City Clerk) Action: Approval of item

28. Consider approval of a resolution revising and amending Appendix A of the City Code, Fees and Charges, regarding Campsite Numbers 24 and 27 at Lake Lawtonka's East Campground. Exhibits: Resolution 00-83.

(Title only) Resolution No. 00- 83

A resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, amending the fees for overnight camping and providing an effective date.

29. Consider entering into contracts with Mr. and Mrs. Dietmar Caudle for fire protection for two properties outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Exhibits: None. (Contracts on file with City Clerk) Action: Approval of item

30. Consider entering into a contract with Mr. and Mrs. Anthony Demasi for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Exhibits: None. (Contract on file with City Clerk) Action: Approval of item

31. THIS ITEM WAS CONSIDERED SEPARATELY.

32. THIS ITEM WAS CONSIDERED SEPARATELY.

33. Consider approving the following contract extensions: A) Wireless Communication Equipment with Precision Services Group; B) Copier Contract with High Tech Office Systems. Exhibits: None. Action: Extensions approved.

34. Consider awarding contract for Pebble Quicklime. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Global Stone St. Clair.

35. Consider awarding contract for Elevator Maintenance. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Thyssen Dover Elevator.

36. Consider awarding contract for the Lawton Arts & Humanities Magazine. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Colorgraphics "The Print Shop".

37. Consider awarding contract for Technical Support for International Festival. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Journey Productions.

38. Consider awarding contract for Anhydrous Ammonia. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Co-op Services, Inc.

39. Consider awarding contract for Rental of Portable Restrooms. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to ARA Equipment Rental.

40. Consider awarding contract for 12 Gauge Shotguns. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Cruiser Tech.

41. Consider awarding contract for Shampoo/Steam Clean Carpet. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Premier Carpet and Air Duct Cleaning, Inc.

42. Consider awarding contract for Sodium Silicofluoride. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to Van Water and Rogers.

43. Consider awarding contract for Asphalt Street Materials. Exhibits: Recommendation; Bid Abstract. Action: Contract awarded to T & G Construction, Inc.

44. Consider ratifying contract for Natural Grass Hay Baling Contract (Tracts E-9, 11, 13, 15 & 16). Exhibits: Recommendation; Bid Abstract (See Water Authority Agenda). Action: Ratified award of contract to Fletcher Farm Center.

45. Consider approval of appointments to boards and commissions. Exhibits: Memo. Building Development Appeal Board - Glenn Brennan, Rep: Licensed Electrical Contractor; Appt: 2/24/98; Reappt: 8/8/00; Term: 2/24/00 to 2/24/02.

46. Consider approval of payroll for the period of July 24 through August 6, 2000.

MOVED by Shanklin, SECOND by Smith, to approve the Consent Agenda items as recommended with the exception of Items 12, 31 and 32. AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

12. Consider the following damage claims recommended for approval and consider passage of any resolutions

authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: Marilynn Johnson; Maurice and Peggy Elledge; Kurt M. Bingham; Jeremy and Jennifer Parks; Dennis and Rosemarie Dryburg; Cornish Properties, Inc.; and Herman and Shirley Miller. Exhibits: Legal Opinions/Recommendations. (Resolution 00- 78 ; 00- 79 ; 00- 80 and 00- 81 ___ on file with City Clerk); Johnson - \$129.60; Elledge - \$40.00; Bingham - \$268.00.

Devine said in reference to the Dennis and Rosemarie Dryburg claim, they had their mail box run over and asked if the \$625 was what they needed to replace their mail box and the response was yes. He said the staff has recommended approval and he just wanted to make sure the Dryburg's were satisfied with the amount of money.

MOVED by Devine, SECOND by Smith, to approve the damage claims as recommended and adopt Resolution No.'s 00-78, 00-79, 00-80 and 00-81. AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

(Title only) Resolution No.00- 78

A resolution authorizing and directing the City Attorney to assist Jeremy S. and Jennifer Parks in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Six Thousand Nine hundred Eighty-six dollars and 92/100s (\$6,986.92).

(Title only) Resolution No.00- 79

A resolution authorizing and directing the City Attorney to assist Dennis and Rosemarie Dryburg in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Six Hundred Twenty-Five Dollars and 00/100s (\$625.00).

(Title only) Resolution No.00- 80

A resolution authorizing and directing the City Attorney to assist Cornish Properties, L.L.C., c/o Mike Cornish in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Five Hundred Dollars and 00/100s (\$1,500.00).

(Title only) Resolution No.00- 81

A resolution authorizing and directing the City Attorney to assist Herman R. and Shirley R. Miller in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Three Thousand Two Hundred Sixteen Dollars and 29/100s (\$3,216.29).

31. Consider action to either cancel or enforce the contract with Lawton Communications for Portable Radios, and if canceled, authorize staff to re-bid. Exhibits: Letter

Shanklin asked Wells to explain the \$31 that the bid was raised, how much were the radios and what are they going to have to pay for them if they go back out for bid.

Wells said the bids were awarded in April with the price being from \$570 to \$601 depending on whether it is UHF or VHF. He said Lawton Communication got the bid with a 5% local vendor preference which was only by \$2. He said the City will purchase approximately 40 radios during the year which will be approximately \$3,000 to \$4,000. He said he did not know what the bids would be but thought they needed to rebid just to see if that was a fair markup.

MOVED by Shanklin, SECOND by Smith, to approve canceling the current contract and authorize the staff to re-bid portable radios. AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

32. Accept a donation of ceramic molds and equipment from Howard and Jeanne Selden to be used by the Parks and Recreation Department. Exhibits: None. (Petition on file in City Clerk's Office) Action: Approval of item

Mayor Powell said he wanted to thank Howard and Jeanne Selden for the two electric ceramic kilns valued at \$3,500 which were given to Senior Services which will benefit those persons who use the facility.

MOVED by Smith, SECOND by Devine, to accept the donation of ceramic molds and equipment from Howard and Jeanne Selden to be used by the Parks and Recreation Department. AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY MANAGER/CITY COUNCIL.

Baxter said the rodeo starts tomorrow and asked everyone to attend.

Devine said he provided a copy of a memorandum to the Council and wanted to make a change to it. He said instead of hiring a chief building official position, which he understood Mr. Tucker would be moved into that as an assistant in the reorganization, he would like to recommend two plumbing inspectors. He said they have seven, possibly ten new facilities that will start within the next six months and they do not have the staff in Code Administration to handle it, they are pretty well covered and asked them to look at it because it will be on the next Council agenda.

Shanklin said Devine mentioned a reorganization and asked if Devine was privileged to something the rest of the Council was not and asked what the reorganization is. Devine said he understood the whole Council was aware that Baker was going to reorganize quite a bit and asked Baker to elaborate.

Baker said City Council approved the reorganization of forming the Planning and Community Development Department, it was discussed and approved in the budget. Shanklin said he does not need a course in isolating and putting in a buffer zone, Devine said that Mr. Tucker was going to be the man. Devine said Tucker is going to be one of the assistants which will take care of this job, he will not be over Code Administration he will move down one notch and take over this position and since they are taking him out of the other position it will open him up for more activity.

Haywood thanked everyone for coming Saturday to Mr. Johnson's Street dedication. He said the school reunion is over and he is no longer the chairperson so can concentrate on City Council from now on. He said Smith was at the celebration and the luncheon on Friday.

BUSINESS ITEMS:

47. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Fire Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

48. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the cases styled 38th Street Partnership vs. City of Lawton, et al., Case No. CJ-2000-301 and Bann Partnership vs. City of Lawton, et al., Case No. CJ-2000-602, both filed in the District Court of Comanche County, and, if necessary, take appropriate action in open session. Exhibits: None.

49. Pursuant to Section 307(B)(3), Title 25, Oklahoma Statutes, consider convening in executive session to discuss the appraisal of 3.9 acres of City property and if necessary, take appropriate action in open session. Exhibits: None.

ADDENDUM ITEMS:

1. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled C. Steve Wilson v. Drew McDaniels, Case No. CJ-99-1256, in the District Court of Comanche County, and if necessary, take appropriate action in open session. Exhibits: None.

2. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled C. Steve Wilson v. The City of Lawton, a municipal corporation, and Gilbert Schumpert, Case No. CIV-99-2104, in the United States District, Western District of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

3. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to evaluate the performance of the City Manager, City Clerk, City Attorney, and Municipal Judge; and, take action as necessary in open session. Exhibits: None.

MOVED by Baxter, SECOND by Haywood, to convene in executive session as shown on the agenda and the Addendum and recommended by the legal staff. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:40 p.m. and returned to regular open session at approximately 10:30 p.m. with roll call reflecting all members present except Haywood who returned shortly after Roll Call.

On Item 47, the City Attorney reported that pursuant to Section 307B.2, Title 25, Oklahoma Statutes, the City Council convened in executive session to discuss the potential Bargaining Agreement with the Fire Union for FY 2000-2001.

MOVED by Baxter, SECOND by Purcell, to direct staff to return to the Fire Union, Local 1882, with a counter proposal offer and that is also the City's final proposal to the Fire Local Union and they will have ten days to respond and must respond by the end of the business day of August 18 to the lead negotiator for the City which is Mr. Gary Jackson. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

On Item 48, the City Attorney reported that we convened into executive session pursuant to Section 307B4, Title 25, Oklahoma Statutes, to discuss two cases, 38th Street Partnership vs. City of Lawton, Case No. CJ-2000-301 and Bann Partnership vs. City of Lawton et. al Case No. CJ-2000-602, both filed in District Court Comanche County, no action is required at this time.

On Item 49, the City Attorney reported that we convened into executive session pursuant to Section 307(B)(3), Title 25, Oklahoma Statutes, to discuss the appraisal of 3.9 acres of City property and no action is required.

On Addendum Items 1 and 2 the City Attorney reported that pursuant to Section 307B4, Title 25, Oklahoma Statutes, we convened in executive session to discuss the case styled C. Steve Wilson v. Drew McDaniels CJ-99-1256 in Comanche County District Court and C. Steve Wilson v. the City and Gilbert Schumpert CIV-99-2104 in the United States District Court, Western District of Oklahoma. He recommended a motion to approve the City Attorney's Office to prepare a resolution authorizing the Mayor and City Clerk to sign the resolution pursuant to terms to be set out in the resolution for

settlement of these cases.

MOVED by Shanklin, SECOND by Smith, to approve the City Attorney's Office to prepare a resolution authorizing the Mayor and City Clerk to sign the resolution pursuant to terms to be set out in the resolution for settlement of these cases.

AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

On Addendum, Item 3, Mayor Powell reported that there is no action.

There being no further business to consider, the meeting adjourned at 10:35 p.m. upon motion, second and roll call vote.